

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SANDRA TOCCI,

Plaintiff,

v.

CORECIVIC, INC., et al.,

Defendants.

Case No.: 2:21-cv-01302-GMN-NJK

ORDER

[Docket No. 28]

Pending before the Court is a motion to strike Plaintiff's second amended complaint filed by Defendants CoreCivic, Inc., CoreCivic of Tennessee, and Brian Koehn ("Defendants"). Docket No. 28. Plaintiff filed a response in opposition and Defendants filed a reply. Docket Nos. 38, 39. This motion is properly resolved without a hearing. Local Rule 78-1.

Federal Rule of Civil Procedure 15 governs amending pleadings. Federal Rule 15(a) provides that a party "may amend its pleading once as a matter of course" either within 21 days of serving the pleading or, if a responsive pleading is required, within 21 days of being served with a 12(b), (e), or (f) motion. For any further amendments, a party may not amend its pleading without either "the opposing party's written consent or the court's leave." Fed. R. Civ. P. 15(b).

Federal Rule of Civil Procedure 12(f) permits courts to "strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter." The Court also has inherent authority to strike improper filings "to promulgate and enforce rules for the management of litigation. . . ." *Spurlock v. F.B.I.*, 69 F.3d 1010, 1016 (9th Cir. 1995); *see also* LR IA 10-1(d).

Here, Plaintiff already amended her complaint once as of right when she filed her first amended complaint. Docket No. 5. The Court has not been provided meaningful argument or evidence to support a finding that she met the 15(b) standard of obtaining either the Court's leave

1 or the opposing party's written consent before filing her second amended complaint.¹ Therefore,
2 Plaintiff's second amended complaint was improperly filed and is a rogue document. The Court
3 will **STRIKE** Plaintiff's second amended complaint.

4 Accordingly, Defendants' motion to strike, Docket No. 28, is hereby **GRANTED**. The
5 Court **INSTRUCTS** the Clerk's office to strike Plaintiff's second amended complaint, Docket No.
6 21. Plaintiff's first amended complaint, Docket No. 5, remains the operative complaint in this
7 action.

8 IT IS SO ORDERED.

9 Dated: May 6, 2022

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Nancy J. Koppe
United States Magistrate Judge
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27 ¹ The Court is not persuaded by Plaintiff's argument that she was not served with
28 Defendants' motion to dismiss because the notification went into her attorney's spam folder.
Docket No. 38 at 3. *See* LR IC 4-1(b).